HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.12440 of 2000

Dated 23rd day of October, 2007

Between:

Nagarjuna District Cooperative Marketing Society Limited, Nalgonda, rep. by its President, V.Venkateswara Rao .. Petitioner

And

The Principal Secretary to Government, Agriculture and Cooperation Dept., Govt. of A.P., Secretariat, Hyderabad and four others .. Respondents

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O R D E R:

This writ petition is instituted seeking a mandamus to declare the action of the respondents in seeking alienation or handing over of the petitioner's land, which forms part of the Municipal Door No.1-1-381 at Suryapet, to the 2nd respondent-District Collector, without taking into consideration the requirements of the petitioner-society and without resorting to the procedure of law, as arbitrary and illegal, and consequently direct the respondents not to resort to forcible occupation of the land belonging to the petitioner-society.

The case of the petitioner is that originally, Suryapet Cooperative Marketing Society Limited purchased an extent of Ac.0.22 guntas of land under registered sale deed dated 25.10.1963. Thereafter, all the Taluk level Cooperative Marketing Societies got amalgamated with the petitioner-District Cooperative Marketing Society Limited on 6.4.1987 and the assets and liabilities of the societies vested in the petitioner-society. Thus, the petitioner-society is in possession of the land right from its merger on 6.4.1987. With a view to setting up a temporary Rythu Bazaar, the 4th respondent-Assistant Director requested the petitioner- society to give the land in question for a period of two months with a promise to return it, and accordingly, the petitioner gave the land for establishment of Rythu bazaar. Though the period of two months was over, the 3rd respondent-Revenue Divisional Officer did not handover the land to the petitioner-society on the premise that it belongs to the Government. Though, several representations were made to the 3rd

respondent stating that the land in question was originally owned by one A.Veeraiah and the same was purchased by the then Suryapet Cooperative Marketing Society Limited by virtue of a registered sale deed dated 25.10.1963, the 3rd respondent is claiming the property as that of the Government. In the light of the claim made by the 3rd respondent, the petitioner addressed letters to the Government, which in turn, by its Proceedings dated 5.1.2001 made it clear that the land in question belongs to the petitioner-District Cooperative Marketing Society Limited and if it is required for any other purpose by the Revenue Department, it must obtain prior permission of the petitioner-society. Now, the petitioner's grievance is that though the period of 2 months was over, the 3rd respondent did not hand over the possession of the land in question to the petitioner, but handed over the possession of the land to the 2nd respondent-District Collector.

In spite of the fact that the respondents are served with notices, they have not chosen to file counter affidavit.

Heard the learned counsel for petitioner, the learned Government Pleader for Cooperation, the learned Government Pleader for Revenue and perused the material placed on record.

Memo No.Sp.470/Mktg-II(2)/2000, dated 5.1.2001 issued by the Department of Agricultural and Cooperation, Government of A.P. clearly states that the land in question belongs to the petitioner-District Cooperative Marketing Society Limited, and the consent of the society be obtained first to establish a Rythu bazaar. From these proceedings, it is clear that the land in question belongs to the petitioner-society and the 3rd respondent, without any authority, took possession of it, on the premise that Rythu bazaar would be established. Even if the Government wants to establish a Rythu Bazaar, it must first obtain the permission of the owner of the land or initiate proceedings for acquiring it. In the instant case, admittedly, the land belongs to the

petitioner-society, and if it is required, the 3rd respondent shall obtain the petitioner's permission and then only establish Rythu Bazaar. In fact, this possession is also clarified by the Government in its proceedings dated 5.1.2001. Hence, this Court is of the view that the action of the 3rd respondent in not handing over the possession of the land, which forms part of Municipal D.No.1-1-381 at Suryapet Nalgonda District, to the petitioner-society, is arbitrary and illegal.

In the result, the writ petition is allowed and the 3rd respondent is directed to hand over the possession of the land in question to the petitioner-society. However, as observed, if the 3rd respondent-Revenue Divisional Officer so chooses to establish a Rythu Bazaar in the petitioner's land, he may follow the instructions issued by the Government in its Memo dated 5.1.2001, within a period of four weeks from the date of receipt of a copy of this order. No costs.

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23.10.2007

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